In the District Court of the *Third* Judicial District,

OF THE STATE OF CALIFORNIA,

IN AND FOR THE

COUNTY OF *Santa Clara*

B. F. Bute Plaintiff

VS.

O.B. Bagley and
George C Hinckley, Defendants

COMPLAINT ON FORECLOSURE OF MORTGAGE, SHORT FORM

County of *Santa Clara* ss.

B. F. Bute

the plaintiff herein, resident of said County, complain of *O.B. Badley and George C. Hinckley* defendant*s* herein, and for cause of action allege as follows, to wit: That on the *27th* day of *February* A. D. 186*4* at the County *San Francisco* ~~aforesaid~~, the said defendant *O.B. Bagley* made and executed, a certain instrument in writing bearing date on that day, of which the following is a copy, to wit:

" $1000. San Fran° February 27th 1864.

For value received I promise to pay B F Bute or order in United States Gold coin on the fifteenth of May next without grace, One thousand dollars with interest at the rate of one & one half per cent per month payable at maturity, and in case of failure to pay said principal and interest in said Gold coin, then for value received I promise to pay to said B. F. Bute or order in addition thereto and as damages such further amount or percentage as is or may be equal to the actual difference (in Market value) between such gold coin and United States notes or other paper evidences of indebtedness which are or may be made by the laws of the United States a legal tender in payment of debts {U. S. Stamp 4 cents Cancelled} O.B. Bagley "

and then and there delivered the same to the payee therein named whereby *he* promised and became liable to pay the sum of money therein mentioned and the interest thereon according to the terms of said instrument, as by the said *note* ready to be produced as this court may direct, will more fully appear.

And the said defendant *O. B. Bagley* — — — — — — — — to secure the payment of the said principal sum and the interest thereon, as mentioned in said instrument according to the tenor thereof, did at the same time (with the date thereof) execute under *his* hand and seal and deliver to the said *Plaintiff B. F. Bute, his certain indenture being* —

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a mortgage bearing the same date with the said instrument, and conditioned for the payment of the said sum of One thousand — — —— dollars, and interest thereon at the rate and at the time and in the manner and according to the tenor specified in said instrument hereinbefore mentioned, and according to the conditions thereof, by which said mortgage the said defendant mortgaged, bargained, sold and conveyed to the said mortgagor and payee in the said instrument in writing and mortgage mentioned in fee, the following described premises with the appurtenances thereto appertaining, situate, lying, and being in said County, that is to say, ALL that certain piece or parcel of land lying and situate in the County of Santa Clara in the State of California and then in the possession of said Bagley, bounded and described as follows, to wit: Fractional North East quarter of Section thirty one (31) containing forty one & 48/100 acres and fractional South East quarter of Section thirty (30) containing One hundred and five & 13/100 acres Making in all One hundred and forty six & 61/100 acres of land in Township 6. South Range 2 West, Together with all and singular the tenements hereditaments and appurtenances thereunto belonging or in any wise appertaining and the reversion and reversions remainder and remainders rents issues and profits thereof

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And by the covenants and conditions in said mortgage in case of default in the payment of said sum of money and interest, or of any part thereof, in all respects in accordance with the terms of said instrument, the said mortgagee his executors, administrators or assigns, was empowered to sell the said mortgaged premises in due form of law, and out of the moneys arising from said sale to pay the said sum of money and interest, with the costs and expenses of the proceedings thereon, together with five per cent on the amount due as counsel fees rendering the surplus proceeds of such sale to the said mortgagor his — — heirs or assigns. And the said mortgage was duly acknowledged and certified so as to entitle it to be recorded, and the same was afterwards, to wit: on the Twenty eighth — — day of April — —— A. D. 1864, duly recorded in the office of the County Recorder of said county, on pages 788 to 792 in Liber F of Mortgages, as by the said record, and the mortgage and the certificate of acknowledgment, and of the recording aforesaid duly endorsed thereon, will more fully appear.

And said plaintiff alleges that the interest on the said principal sum mentioned in said instrument and in the mortgage has been paid down to the 13th — — day of June — — — A. D. 1864, on which last named day the sum of Two Hundred and fifty three dollars was paid but nothing more has been paid thereon; and the sum of One Thousand dollars the principal sum mentioned in said instrument and mortgage, together with interest thereon at the rate of one and one half per cent. per month from the Twenty Seventh day of ~~day of~~ February — — — — — A. D. 1864, still remains due thereon from said defendant to said plaintiff. less the said sum of $253 paid as aforesaid on the 13th day of June 1864

And plaintiff further says that no proceedings at law have been taken to recover the debt secured by the said mortgage or any part thereof. That the said sum of One thousand Dollars together with interest thereon from the 27th day of February AD 1864 at the rate of one and one half per cent per month, less the said sum of $253 paid and credited on said note, June 13th 1864 is justly due and owing by said Defendant O.B. Bagley to said plaintiff, that the whole of said principal and interest is payable in United States Gold coin according to the terms and meaning of said contract and mortgage together with five per cent on the amount due therein as counsel fees, That said note and mortgage were duly stamped with United States internal revenue Stamps duly cancelled and of the value of fifty five cents

And plaintiff further says that the defendants George C Hinchley

has or claims to have some interest in or claim upon said premises hereinbefore described, or some part thereof as a purchaser, ~~mortgagees, judgment creditors~~, or otherwise, which interests and claims are subsequent and subject to the lien of the plaintiff's mortgage, and no personal claim is made against any of said defendants, except the said mortgagor.

WHEREFORE, the plaintiff prays judgment against the said O.B. Bagley

for the sum of One thousand Dollars in United States Gold coin with interest at the rate of one and one half per cent. per month from the 27th — day of February — A. D. 1864, less $253. paid on said Note, June 13th 1864 and that said judgment may follow the aforesaid obligation and be made payable in the kind of money ~~or currency~~ to wit: gold coin specified therein; together with counsel fees at the rate of five per cent on said account in like gold coin that a decree in due form may be made for the sale of said premises in the said mortgage mentioned, by the Sheriff of said County according to law, and the practice of this Court, and the proceeds of sale applied in payment of the amount due to the plaintiff; that said defendants and all persons claiming under them or any of them, subsequent to the execution of said mortgage upon said premises either as purchasers, incumbrances or otherwise, may be barred and foreclosed of all right, claim or equity of redemption in the said premises, and every part thereof; that the said plaintiff may have execution against the said O.B. Bagley — —— — for any deficiency which may remain after applying all the proceeds of the sale of said premises properly applicable to the satisfaction of said judgment; that the plaintiff or any other parties to the suit may become purchaser at said sale,

and that he — — may have such other and further order and relief in the premises as the case may require, and as to this Court may seem proper, equitable, just and meet, together with counsel fees and costs of this action.

C. T. Ryland

Plaintiff's Attorney.

Filed March 20th AD. 1865
James A Clayton Clerk
By A C. Pomeroy — Deputy.

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State of California, }
COUNTY OF SANTA CLARA. } ss.

I, James A. Clayton, *County Clerk in and for the above named County and State, and Ex-Officio Clerk of the* 3d District *Court in and for the aforesaid County, do hereby certify the annexed to be a true, full and correct copy of the original* Complaint herein *now ~~of record, and~~ on file in said Court.*

In Testimony Whereof, *I have hereunto set my hand, and affixed the Seal of said Court, this* Twenty-fifth *day of* March *A. D. 1865*

James A Clayton Clerk.
By A E Pomeroy Deputy Clerk.

No. 2092

Third District Court,
IN AND FOR THE
County of Santa Clara

B. F. Bute Plff.

VS.

O. B. Bagley &
Geo. C. Hinckley Defendts

Copy COMPLAINT
ON FORECLOSURE OF MORTGAGE.

C. T. Ryland atty for Plffs.

Filed of A. D., 186 .

In the District Court of the Third Judicial District,

OF THE STATE OF CALIFORNIA,

IN AND FOR THE COUNTY OF SANTA CLARA.

B. F. Butte

Plaintiff

vs.

O. B. Bagley and
George E Hinckley

Defendants

Action brought in the District Court of the Third Judicial District of the State of California, in and for the County of Santa Clara, and the complaint filed in said County of Santa Clara, in the office of the Clerk of said District Court.

The People of the State of California send greeting to

O. B. Bagley and George E. Hinckley

DEFENDANTS

You are hereby required to appear in an action brought against you by the above named Plaintiff in the District Court of the Third Judicial District of the State of California, in and for the County of Santa Clara, and to answer the Complaint filed therein, (a copy of which accompanies this Summons) within ten days (exclusive of the day of service,) after the service on you of this Summons—if served within this County; or, if served out of this County, but within this Judicial District, within twenty days; or, if served out of said District, then within forty days—or judgment by default will be taken against you according to the prayer of said Complaint.

The said action is brought to obtain judgment against the said Deft O. B. Bagley for the sum of $1000 in United States Gold Coin with interest thereon at the rate of one & one half per cent per month from the 27th day of February 1864, less $253 paid thereon June 13 1864. which Plff alleges to be due him on a certain promissory note, made, executed and delivered by said Deft. Bagley to Plff. That the mortgage given to secure the payment of said promissory note be foreclosed: that the premises therein described be decreed to be sold, and the proceeds thereof applied to the payment of said sum, interest and costs in said United States Gold Coin as aforesaid together with counsel fees at the rate of five per cent upon the said amount, also payable in like gold coin: that said defendants and all persons claiming under them subsequent to the commencement of this action be foreclosed of all claim, right or equity of redemption in and to said premises; and that ~~said~~ the Plff may have execution against said Deft. Bagley for any deficiency remaining after all the proceeds of said sale as aforesaid, and for all costs of suit —

And you are hereby notified, that if you fail to appear and answer the said complaint as above required, the said Plaintiff will apply to the Court for the relief in his said Complaint demanded

U. S. Int Rev. Stamp
50 cts. Cancelled

Dist Ct
Seal

Given under my hand and the seal of the District Court of the Third Judicial District of the State of California, in and for the County of Santa Clara, this twenty-third day of March in the year of our Lord one thousand eight hundred and sixty-five

James A. Clayton, *Clerk.*

By R E Pomeroy, *Deputy Clerk.*

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according to the tenor thereof, did at the same time (with the date thereof) execute under his — hand and seal and deliver to the said Plaintiff B. F. Bute, his certain — — indenture being — — — — — — — — —

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In the District Court of the [illegible] Judicial District,

OF THE STATE OF CALIFORNIA,

IN AND FOR THE

COUNTY OF *Santa Clara*

B. F. Bute Plaintiff

VS.

O. B. Bagley and George E Hinckley Defts.

COMPLAINT ON FORECLOSURE OF MORTGAGE, SHORT FORM

County of *Santa Clara* ss.

B. F. Bute

the plaintiff herein, resident of said County, complain of *O. B. Bagley and George E Hinckley*

defendants herein, and for cause of action allege as follows, to wit: That on the *27th* day of *February* A. D. 186*4* at the County ~~aforesaid~~ *San Francisco*, the said defendant *O. B. Bagley*

made and executed, a certain instrument in writing bearing date on that day, of which the following is a copy, to wit:

" $1000. San Fran.o February 27th 1864
For value received I promise to pay B. F. Bute or order in United States Gold coin on the fifteenth of May next without grace One thousand dollars with interest at the rate of one & one half per cent per month payable at maturity and in case of failure to pay said principal and interest in said Gold coin, then for value received I promise to pay to said B. F. Bute or order in addition thereto and as damages such further amount or percentage as is or may be equal to the actual difference (in market value) between such gold coin and United States notes or other paper evidences of indebtedness which are or may be made by the laws of the United States a legal tender in payment of debts

{U. S. Stamp
4 cents Cancelled}

O. B. Bagley."

and then and there delivered the same to the payee therein named whereby *he* promised and became liable to pay the sum of money therein mentioned and the interest thereon according to the terms of said instrument, as by the said *note* ready to be produced as this court may direct, will more fully appear.

And the said defendant *O. B. Bagley* to secure the payment of the said principal sum and the interest thereon, as mentioned in said instrument according to the tenor thereof, did at the same time (with the date thereof) execute under *his* hand and seal and deliver to the said *Plaintiff B. F. Bute, his certain indenture being*

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a mortgage bearing the same date with the said instrument, and conditioned for the payment of the said sum of One thousand — — — — dollars, and interest thereon at the rate and at the time and in the manner and according to the tenor specified in said instrument hereinbefore mentioned, and according to the conditions thereof, by which said mortgage the said defendant mortgaged, bargained, sold and conveyed to the said mortgagor and payee in the said instrument in writing and mortgage mentioned in fee, the following described premises with the appurtenances thereto appertaining, situate, lying, and being in said County, that is to say, ALL that certain piece or parcel of land lying and situate in the County of Santa Clara in the State of California and then in the possession of said Bagley bounded and described as follows to wit: Fractional North East Quarter of Section Thirty one (31) containing forty one & $\frac{48}{100}$ acres and fractional South East Quarter of Section thirty (30) containing one hundred and five & $\frac{13}{100}$ acres making in all one hundred and forty six & $\frac{61}{100}$ acres of land in Township 6 South range 2 West Together with all and singular the tenements hereditaments and appurtenances thereunto belonging or in any wise appertaining and the reversion and reversions remainder and remainders rents issues and profits thereof.

And by the covenants and conditions in said mortgage in case of default in the payment of said sum of money and interest, or of any part thereof, in all respects in accordance with the terms of said instrument, the said mortgagee his — — executors, administrators or assigns, was — empowered to sell the said mortgaged premises in due form of law, and out of the moneys arising from said sale to pay the said sum of money and interest, with the costs and expenses of the proceedings thereon, together with five per cent on the amount due as counsel fees rendering the surplus proceeds of such sale to the said mortgagor his — — heirs or assigns. And the said mortgage was duly acknowledged and certified so as to entitle it to be recorded, and the same was afterwards, to wit: on the Twenty eighth — — day of April — — — A. D. 1864, duly recorded in the office of the County Recorder of said county, on pages 788 to 792 in Liber F. of Mortgages, as by the said record, and the mortgage and the certificate of acknowledgment, and of the recording aforesaid duly endorsed thereon, will more fully appear.

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And said plaintiff alleges that the interest on the said principal sum mentioned in said instrument and in the mortgage has been paid down to the 13th day of June A. D. 1864, on which last named day the sum of two hundred and fifty three dollars was paid but nothing more has been paid thereon; and the sum of one thousand dollars the principal sum mentioned in said instrument and mortgage, together with interest thereon at the rate of one and one half per cent. per Month from the Twenty seventh day of February A. D. 1864, still remains due thereon from said defendant to said plaintiff. less the said sum of $253. paid as aforesaid on the 13th day of June 1864

And plaintiff further says that no proceedings at law have been taken to recover the debt secured by the said mortgage or any part thereof. That the said sum of One thousand dollars together with interest thereon from the 27th day of February A.D. 1864 at the rate of one and one half per cent per month, less the said sum of $253 paid and credited on said note June 13th 1864 is justly due and owing by said Defendant O.B. Bagley to said Plaintiff; that the whole of said principal and interest is payable in United States Gold Coin according to the terms and meaning of said contract and mortgage together with five per cent on the amount due thereon as counsel fees, that said note and mortgage were duly stamped with United States internal revenue stamps duly cancelled and of the value of fifty five cents

And plaintiff further says that the defendant George C. Hinchley

has or claims to have some interest in or claim upon said premises hereinbefore described, or some part thereof as purchaser, ~~mortgagees, judgment creditors,~~ or otherwise, which interests and claims are subsequent and subject to the lien of the plaintiff's mortgage, and no personal claim is made against any of said defendants, except the said mortgagor.

Wherefore, the plaintiff prays judgment against the said O.B. Bagley for the sum of One thousand dollars in United States gold coin with interest at the rate of one and a half per cent. per Month from the 27th day of February A. D. 1864, less $253. paid on said note June 13th, 1864, and that said judgment may follow the aforesaid obligation and be made payable in the kind of money, to wit: gold coin ~~or currency~~ specified therein, together with counsel fees at the rate of five per cent on said amount in like gold coin; that a decree in due form may be made for the sale of said premises in the said mortgage mentioned, by the Sheriff of said County according to law, and the practice of this Court, and the proceeds of sale applied in payment of the amount due to the plaintiff; that said defendant and all persons claiming under them or any of them, subsequent to the execution of said mortgage upon said premises either as purchasers, incumbrances or otherwise, may be barred and foreclosed of all right, claim or equity of redemption in the said premises, and every part thereof; that the said plaintiff may have execution against the said O.B. Bagley for any deficiency which may remain after applying all the proceeds of the sale of said premises properly applicable to the satisfaction of said judgment; that the plaintiff or any other parties to the suit may become purchaser at said sale,

and that he may have such other and further order and relief in the premises as the case may require, and as to this Court may seem proper, equitable, just and meet, together with counsel fees and costs of this action.

C. T. Ryland

Plaintiff's Attorney.

Filed, March 20th A.D. 1865.
James A Clayton, Clerk
By A. C. Pomeroy Deputy

No. 2092

Third District Court,

IN AND FOR THE

County of Santa Clara

B. F. Bute, Plff.

VS.

O. B. Bagley &
George E Hinckley
Defendants

Copy COMPLAINT

ON FORECLOSURE OF MORTGAGE.

C. T. Ryland, Atty. for Plff.

Filed of

A. D., 186 .

State of California,
COUNTY OF SANTA CLARA. } ss.

I, James A. Clayton, County Clerk in and for the above named County and State, and Ex-Officio Clerk of the 3d District Court in and for the aforesaid County, do hereby certify the annexed to be a true, full and correct copy of the original Complaint herein now ~~of record, and~~ on file in said Court.

In Testimony Whereof, I have hereunto set my hand, ~~and~~ affixed the Seal of said Court, this Twenty-fifth day of March A. D. 1865

James A. Clayton, Clerk.

By R. B. Emmery Deputy Clerk.